



6450-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed 2025 Power Marketing Plan

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed plan.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), Sierra Nevada Region (SNR) has developed a Proposed 2025 Power Marketing Plan (Proposed Plan). The Proposed Plan provides for marketing power from the Central Valley Project (CVP) and the Washoe Project from January 1, 2025, through December 31, 2054. Western currently markets about 1,580 megawatts (MW) of power from the CVP and 3.65 MW from the Washoe Project under long-term contracts to approximately 80 preference customers in northern and central California and Nevada. On December 31, 2024, all of Western's long-term power sales contracts will expire. Western developed the Proposed Plan to define the products and services to be offered, and the Eligibility and Allocation Criteria that will lead to allocations of SNR's power starting on January 1, 2025, and going through December 31, 2054. This Federal Register notice initiates the formal public process for the Proposed Plan. As part of the process, Western requests public comment.

DATES: On June 1, 2016, beginning at 1 p.m., PT, Western will hold a public information forum to present the Proposed Plan and respond to questions from the public. On July 12, 2016, beginning at 1 p.m., PT, Western will hold a public comment forum to receive oral and written comments on the Proposed Plan. To assure consideration, written comments on the

Proposed Plan must be received or postmarked by 5 p.m. **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Each forum will be held at the Lake Natoma Inn, 702 Gold Lake Drive, Folsom, CA, 95630. Oral and written comments may be presented at the public comment forum. A transcript of oral comments made at this forum will be available from the court reporter or on Western's website

<https://www.wapa.gov/regions/SN/PowerMarketing/Pages/2025-Program.aspx>. Send written comments to Ms. Sonja Anderson, Vice President of Power Marketing, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA, 95630, e-mail to 2025propplan@wapa.gov. Western reserves the right to not consider any comments that are received after the close of the comment period. The record, including all documents sent to Western by the public for the purpose of developing the Proposed Plan, will be available on Western's website at

<https://www.wapa.gov/regions/SN/PowerMarketing/Pages/2025-Program.aspx>. After all public comments have been considered, Western will publish a Final 2025 Power Marketing Plan (Final Plan) in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Sonja Anderson, Vice President of Power Marketing, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA, 95630, by e-mail at sanderso@wapa.gov, or by telephone (916) 353-4421.

SUPPLEMENTARY INFORMATION:

Background

The CVP is a large water and power system, initially authorized by Congress in 1935, which spans approximately one-third of the State of California. Congress defined the purposes of the CVP as: (1) river regulation; (2) improvement of navigation; (3) flood control; (4) irrigation; (5) domestic uses; and (6) power. The CVP Improvement Act of 1992 added fish and wildlife habitat to the list of CVP purposes.

CVP power facilities include 11 powerplants with a maximum operating capability of about 2,113 MW and an estimated average annual generation of 4.6 million megawatthours (MWh). The U.S. Department of the Interior, Bureau of Reclamation (Reclamation) operates the water control and delivery system and all of the powerplants with the exception of the San Luis Unit, the operation of which Reclamation contracted to the State of California Department of Water Resources. Western markets and transmits the power available from the CVP. Western owns the 94 circuit-mile Malin-Round Mountain 500-kilovolt (kV) transmission line (an integral part of the Pacific AC Intertie (PACI)), the 84 circuit-mile Los Banos-Gates No. 3 500-kV transmission line, 803 circuit miles of 230-kV transmission line, 7 circuit miles of 115-kV transmission line, and approximately 63 circuit miles of 69-kV and below transmission line. Western also has part ownership in the 342-mile California-Oregon Transmission Project (COTP) 500-kV transmission line. Many of Western's existing customers have no direct access to Western's transmission lines and receive service over transmission lines owned by other utilities.

Congress authorized the Washoe Project in 1956. The Washoe Project is located in west-central Nevada and east-central California and was designed to regulate runoff from the

Truckee and Carson Rivers and to enhance irrigation; water drainage; municipal, industrial, and fisheries uses; provide flood protection; fish and wildlife habitat; and recreation. The Washoe Project includes Prosser Creek Dam and reservoir; Stampede Dam, reservoir, and powerplant; Marble Creek Dam; and Pyramid Lake Fishway. The Stampede Powerplant, located in Sierra County, California, was completed in 1987 and has a maximum operating capability of 3.65 MW with an estimated annual generation of 10,000 MWh. Sierra Pacific Power Company (SPPC) owns and operates the only transmission system available for access to Stampede Powerplant.

History of Central Valley Project Power Allocations

The United States began generating power in the CVP from the Shasta Powerplant in 1944. Formal allocations of 450 MW of CVP power were first made in 1952. In 1964, with the addition of the Trinity River Division facilities, Reclamation increased allocations to preference customers to 925 MW. In 1967, under terms of Contract 14-06-200-2948A (Contract 2948A) with the Pacific Gas and Electric Company, power imports over the PACI (Northwest imports) were incorporated along with provisions for load level increases up to 985 MW in 1975 and up to 1,050 MW in 1980.

Later in 1980, the load level under Contract 2948A was increased by 102 MW to 1,152 MW and Western increased allocations under the 1981 Power Marketing Plan (47 FR 4139). New customers received 26 MW of nonwithdrawable power and 42 MW of withdrawable power¹ for a total of 68 MW, with 4 MW of withdrawable power left unallocated. Also,

¹ The Westlands Water District had a very large allocation that it was unable to use at the time, but wished to retain the right to the power for future load growth. Western determined it could allocate the unused Westlands' allocation as a withdrawable power product. Withdrawable power allocations were withdrawable on a 3-month notice. Westlands withdrawable power allocations were in effect through 2004.

diversity power² allocations of 30 MW were made to those customers who could shed load during SNR's system simultaneous peak.

Under the 1994 Power Marketing Plan (57 FR 45782 and 58 FR 34579), existing customers with contracts expiring in 1994 were allocated 501 MW, and approximately 8 MW was allocated to new customers. With these allocations, a total of approximately 1,580 MW were under contract through 2004.

On November 30, 1993, the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102-484; 1993 NDAA) was signed into law. Section 2929 of the 1993 NDAA provides that, for a 10-year period, the CVP electric power allocations to military installations in the State of California which have been closed or approved for closure shall be reserved for sale through long-term contracts to preference entities which agree to use such power to promote economic development at the military installations closed or approved for closure. On December 1, 1994, Western published the final procedures developed to fulfill the requirements of section 2929 of the 1993 NDAA (59 FR 61604). About 41 MW of long-term firm power and about 8 MW of withdrawable power under contract to closing military installations were converted to NDAA power allocations.

Under the 2004 Power Marketing Plan, Western changed the way in which it marketed its power resources. Rather than allocating a firm contract rate of delivery to each customer, Western allocated a percentage of the available power to each customer. Western converted existing customers' MW allocations to percentages and then reduced those percentages by 4 percent to create a 2005 resource pool. All customers' (including 2005 allottees) percentages were reduced again to create a 2 percent resource pool in 2015.

² Diversity power allocations were made to entities that had the ability to shed load during times of Western's total system simultaneous peak in order for Western to remain under its contractual system constraint of 1,152 MW.

History of Washoe Project (Stampede Powerplant) Allocations

Pursuant to the Final Allocation of Stampede Powerplant Power (50 FR 43456), Western allocated all the energy generated at Stampede Powerplant in excess of that needed to serve project use (Lahontan Fish Hatchery and Marble Bluff Fish Facility) to Truckee Donner Public Utility District (Truckee Donner). Because Truckee Donner was unable to obtain transmission service, it was unable to enter into a contract with Western to receive Stampede energy. In 1988, Western rescinded the allocation of Stampede energy to Truckee Donner and marketed Stampede energy to SPPC under short-term agreements.

In 1990, Western began conducting a marketing process for the sale of Stampede energy, giving priority to preference entities. Since no preference entity met the marketing criteria, SPPC continued to purchase Stampede energy under short-term agreements.

In April 1994, Western executed agreements with SPPC and the U.S. Department of the Interior, Fish and Wildlife Service (FWS) that established a mechanism to provide project use service to the FWS facilities. These agreements also provided Western the option to market and transmit all energy, in excess of that which is required to provide project use service, outside of SPPC's control area.

Under the 2004 Power Marketing Plan, the Washoe Project was financially integrated with the CVP to ensure cost recovery of the Washoe Project.

After electric industry restructuring and open transmission access, Truckee Donner was finally able to obtain transmission service from SPPC and, in May 2007, Western terminated its agreement with SPPC and executed an agreement with Truckee Donner and the City of Fallon (Fallon) for the Stampede generation. Under this agreement, Truckee Donner and Fallon provide power to the FWS facilities. Revenues from this agreement flow back to the SNR's

power revenue requirement. This agreement terminates December 31, 2024.

Development of the Proposed Plan

Western is developing the Proposed Plan: (1) to define the products and services Western will offer, and (2) to determine the criteria for marketing and allocating power starting on January 1, 2025, and going through December 31, 2054.

In the Proposed Plan, Western is proposing to offer a resource extension to existing customers and to offer a portion of the resource to new customers. The Proposed Plan provides a balance between existing and new customers.

As explained in the **DATES** section of this notice, Western will hold public information and comment forums on the Proposed Plan. After considering all public comments, Western will publish a notice of the Final Plan in the Federal Register. With that notice, Western also will announce its decisions regarding power resource extensions to existing customers and new allocations. After completing the Final Plan, Western will publish a call for applications. The deadline for receipt of applications will be set forth in the call for applications. Western will then evaluate the applications, determine which applications meet the requirements of the Final Plan, and exercise its discretion, provided by law, to allocate power to certain eligible applicants. Proposed and final allocations will subsequently be published in the Federal Register.

Western developed the schedule for the Proposed Plan recognizing the importance of: (1) necessary planning time (approximately 5 years after final contract commitments) for customers to acquire new power resources should their allocation of power change; (2) sufficient time for SNR or its customers to negotiate contracts for balancing area services, third-party transmission, and supplemental power supplies; and (3) time to meet with each customer to design a product/service package prior to the customer making a final commitment.

The Proposed Plan also incorporates the intent of Energy Planning and Management Program (EPAMP) (10 CFR part 905), published by Western on October 20, 1995 (60 FR 54151). EPAMP implements Section 114 of the Energy Policy Act of 1992, and requires Western's customers to prepare Integrated Resource Plans. The Power Marketing Initiative (PMI) of EPAMP provides a framework for extending a major portion of the power available at the time current contracts expire to existing customers, and for establishing project-specific resource pools.

Proposed 2025 Power Marketing Plan

The Proposed Plan addresses: (1) the power to be marketed after December 31, 2024, which is the termination date for all SNR electric service contracts; (2) the general terms and conditions under which the power will be marketed starting on January 1, 2025, and going through December 31, 2054; and (3) the criteria to determine who will be eligible to receive allocations from the resource pools.

Within broad statutory guidelines and operational constraints of the CVP and the Washoe Project, Western has wide discretion as to whom and under what terms it will contract for the sale of Federal power, as long as preference is accorded to statutorily defined public bodies. Western markets power in a manner that will encourage the most widespread use at the lowest possible rates consistent with sound business principles.

I. Acronyms and Definitions

As used herein, the following acronyms and terms, whether singular or plural, capitalized or not capitalized, shall have the following meanings:

Allocation

An offer from Western to sell Federal power for a certain period of time, which will convert to a right to purchase after execution of a contract.

<u>Allocation Criteria</u>	Criteria used to determine the amount of energy allocated to allottees.
<u>Allottee</u>	A preference entity receiving an allocation percentage.
<u>Ancillary Services</u>	Those services necessary to support the transfer of electricity while maintaining reliable operation of the transmission provider's transmission system in accordance with good utility practice. Ancillary services are generally defined by the North American Electric Reliability Corporation.
<u>Base Resource</u>	CVP and Washoe Project power output determined by Western to be available for marketing, including the environmental attributes, after meeting the requirements of project use and first preference customers, and any adjustments for maintenance, reserves, system losses, and certain ancillary services.
<u>Bill Crediting</u>	Contractual provisions whereby payments due to Western by a customer shall be paid by a customer to a third party when so directed by Western.
<u>Capacity</u>	The electrical capability of a generator, transformer, transmission circuit or other equipment.
<u>Central Valley Project (CVP)</u>	A multipurpose Federal water development project extending from the Cascade Range in northern California to the plains along the Kern River, south of the City of Bakersfield.
<u>Chief Executive Officer and Administrator</u>	The Administrator and Chief Executive Officer of Western Area Power Administration.
<u>Contract Principles</u>	Provisions of the electric service contracts, including Western's General Power Contract Provisions.
<u>Custom Product</u>	A combination of products and services, excluding provisions for load growth, which may be made available by Western per customer request, using the customer's Base resource and supplemental purchases made by Western.
<u>Customer</u>	An entity with a contract and receiving electric service from Western's Sierra Nevada Region.

<u>Eligibility Criteria</u>	Conditions that must be met to qualify for an allocation.
<u>Energy</u>	Measured in terms of the work it is capable of doing over a period of time; electric energy is usually measured in kilowatthours or megawatthours.
<u>Final Plan</u>	Western's Final 2025 Marketing Plan for the Sierra Nevada Region.
<u>Firm</u>	A type of product and/or service that is available to a customer at the times it is required.
<u>First Preference Customer/Entity</u>	A preference customer and/or a preference entity (an entity qualified to use, but not using, preference power) within a county of origin (Trinity, Calaveras, and Tuolumne) as specified under the Trinity River Division Act (69 Stat. 719) and the New Melones project provisions of the Flood Control Act of 1962 (76 Stat. 1173, 1191-1192).
<u>General Power Contract Provisions (GPCP)</u>	Standard terms and conditions that are included in Western's electric service contracts.
<u>Integrated Resource Plan (IRP)</u>	A process and framework within which the costs and benefits of both demand and supply-side resources are evaluated to develop the least total cost mix of utility resource options.
<u>Kilowatt (kW)</u>	A unit measuring the rate of production of electricity; one kilowatt equals one thousand watts.
<u>Long-Term</u>	A designation for a contractual period of time greater than 5 years.
<u>Megawatt (MW)</u>	A unit measuring the rate of production of electricity; one megawatt equals one million watts.
<u>Net Billing</u>	Payments due to Western by a customer may be offset against payments due to that customer by Western.
<u>Power</u>	Capacity and energy.
<u>Power Marketing Initiative (PMI)</u>	A component of Western's EPAMP providing criteria regarding certain Western power marketing programs.

<u>Preference</u>	The requirements of Reclamation Law that provide that preference in the sale of Federal power be given to certain entities, such as governments (state, Federal and Native American), municipalities and other public corporations or agencies, and cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 (<i>See, e.g.</i> , Reclamation Project Act of 1939, Section 9(c), 43 U.S.C. 485h(c)).
<u>Primary Marketing Area</u>	The area which generally encompasses northern and central California extending from the Cascade Range to the Tehachapi Mountains and west-central Nevada.
<u>Project Use</u>	Power as defined by Reclamation Law and/or used to operate CVP and Washoe Project facilities.
<u>Proposed Plan</u>	Western's Proposed 2025 Power Marketing Plan.
<u>Reclamation Law</u>	Refers to a series of Federal laws with a lineage dating back to the late 1800s. Viewed as a whole, those laws create the framework under which Western markets power.
<u>Reimbursable Financing</u>	Western may purchase power or provide other services using reimbursable authority pursuant to the Economy Act, 31 U.S.C. 1535. This is a funding mechanism used by Federal customers.
<u>Sierra Nevada Region</u>	The Sierra Nevada Customer Service Region of the Western Area Power Administration.
<u>Unbundled</u>	Electric service that is separated into its components and offered for sale with separate rates for each component.
<u>Washoe Project</u>	A Federal water project located in the Lahontan Basin in west-central Nevada and east-central California.
<u>Western</u>	Western Area Power Administration, United States Department of Energy, a Federal power marketing administration responsible for marketing and transmitting of Federal power pursuant to Reclamation Law and the DOE Organization Act (42 U.S.C. 7101, <i>et seq.</i>).

II. Marketable Power Resource

The primary purpose of the CVP and Washoe Project is water control and delivery. The water control system consists of storage reservoirs that provide daily, seasonal, and annual flow regulation, and smaller regulating reservoirs for diverting water and smoothing upstream dam and powerplant releases. Power generated from these resources depends on hydrology and water operation requirements. Some of the power generated is used for project use to operate pumping and fishery facilities. Currently, project use power is metered at 189 locations in northern and central California and Nevada.

Expected CVP generation (energy and capacity) for 2025 and beyond will vary annually, monthly, and daily based on hydrology and other constraints that govern CVP operations. CVP generation is available at the generator bus and must be adjusted for project use, maintenance, reserves, system losses, and certain ancillary services before the Base Resource is available for marketing. The power resources will be further adjusted for transmission losses to the point of delivery. The power resources also will be adjusted for first preference customers as described in this Proposed Plan.

The following table lists estimates of CVP power resources and adjustments. This table is for informational purposes only and does not imply the power resources and adjustments shown will be the actual amounts available or adjustments applied.

Estimated CVP Power Resources and Adjustments	
Power Resources/Adjustment	Range/Value
Annual energy generation	2,400,000 - 8,600,000 MWh
Monthly energy generation	100,000 - 1,100,000 MWh
Monthly capacity	1,100 - 1,900 MW

Annual project use	670,000 - 1,670,000 MWh
Monthly project use	10,000 - 180,000 MWh
Monthly project use (on peak)	30 - 230 MW
Monthly maintenance	0 - 300 MW
Reserves – hydro	minimum 5% of monthly capacity
CVP transmission and transformation losses from the generator bus to a 230-kV load bus	1.6%

All of the power resource adjustments and variables mentioned above will influence the amount of Base Resource available to customers. During some critically dry months, purchases may be required to meet project use and only a minimal amount of Base Resource will be available during such months. The usability of the Base Resource for meeting customers' loads will be directly related to a customer's ability to integrate this power resource into their power resource mix.

Energy from the Washoe Project is estimated to be about 10,000 MWh annually. Currently, approximately half of the energy is being provided to F&WS Lahontan National Fish Hatchery and Marble Bluff Fish Facility. These F&WS facilities are project use loads of the Washoe Project and have first call on the power resources from the Washoe Project. All costs associated with providing F&WS project use service are, by law, non-reimbursable, and are not included in the Washoe Project energy rates.

Western will continue to make every effort to provide the Washoe Project power resource to F&WS. F&WS is currently using approximately 50 percent of Washoe Project generation, and the same percentage of costs is considered non-reimbursable. Western expects that F&WS loads will increase, reducing the cost to be repaid from power revenues.

III. Products and Services

Western proposes to market its Base Resource alone or in combination with a Custom Product, which could include purchasing some level of firming power on behalf of all customers, a group of customers, or individual customers. All costs incurred by Western in providing additional services to customers will be paid by those customers using the services. The degree to which Western continues to purchase power will depend on customer requests and Federal authorities. After the effective date of the Marketing Plan, Western will determine, in a collaborative process with the customers, the best use of Western's power and transmission resources to provide the Base Resource and Custom Products.

Each allottee will be allocated a percentage of the Base Resource. Following the offer of a contract pursuant to the Final Plan, Western will work with each individual allottee to determine the best use of the Base Resource for that allottee. All allottees will be required to commit to the Base Resource within 6 months of a contract offer.

Upon request, Western may develop a Custom Product for any customer. A Custom Product may include any products or services mutually negotiated between Western and a customer. This may include firming and/or renewable power purchases, ancillary services, reserves, portfolio management services, scheduling coordinator services, etc.

Commitments to purchase a Custom Product must be made by January 1, 2023, for a period of no less than 5 years of service, beginning January 1, 2025. Thereafter, the Custom Product will be offered for periods as agreed to by Western. Western may, at its discretion, extend the commitment dates for the Base Resource and Custom Product.

Western proposes to manage an exchange program to allow all customers to fully and efficiently use their power allocations. Any power allocated by Western to a customer that

cannot be used on a real-time basis due to that customer's load profile will be offered under this program to other customers.

Any unused resources may be marketed for periods of time as determined by Western, and may be marketed outside the primary marketing area. Such sales may be to any entity (preference or non-preference), under any terms, conditions, rates or charges, determined solely by Western.

IV. Proposed Resource Extensions and Resource Pool Allocations

On December 31, 2024, all of the Sierra Nevada Region's long-term power sales contracts will expire. This Proposed Plan addresses how Western will market CVP and Washoe Project power after these contracts expire. Western proposes to apply the principles of the PMI of EPAMP to allocate power starting on January 1, 2025. Using the PMI as a framework, Western proposes to set aside a portion of its available power resource for new allocations. Based on Western's evaluation of potential new loads, Western proposes to initially provide 98 percent of its available power resource to existing customers and to establish a resource pool for new allocations, as described below. Starting on January 1, 2040, Western will reduce the then-existing customers' allocations by 1 percent to develop the 2040 resource pool.

A. Extension for Existing Customers

1. Starting January 1, 2025, Western proposes that existing customers will have a right to purchase 98 percent of their current Base Resource percentage amount; except as provided below:.
2. In the event that an existing customer(s) forfeits some or all of its allocation prior to 2025,

that percentage, up to 2 percent of the total Base Resource, will be returned to the existing customers on a *pro rata* basis.

3. In January 2024, Western will compare all existing customers' allocations to their loads.

Western will use the average Base Resource MWh annual generation and the customers' previous 5 years energy consumption to compare allocations to loads. No customer should have an allocation greater than its load. If, after the comparison, Western believes a customer(s) has an allocation greater than its load, Western will consult with the customer(s) to determine if the allocation is, in fact, larger than its load. If SNR determines the allocation is too large, SNR will reduce that customer(s) allocation to 98 percent of its load.

4. Starting on January 1, 2040, Western is proposing to reduce all customers, including 2025 Resource Pool customers, by an additional 1 percent to create the 2040 Resource Pool.

B. Resource Pool Allocations

1. Western proposes to establish a resource pool by reserving a portion of the power available after 2024 for allocation to eligible preference entities and existing customers. A second resource pool is proposed starting on January 1, 2040. The second resource pool will consist of 1 percent of the power resource available after 2039. Allocations for the resource pools will be determined through a separate public process at a later date.

2. Proposed Resource Pool Amount

The 2025 Resource Pool will initially consist of 2 percent of the power resources available after 2024. Should any Base Resource become available because of

Sections IV.A.2 and IV.A.3 above, Western will, using its discretion, allocate the additional Base Resource at that time. Western will, at its discretion, allocate a percentage of the 2025 Resource Pool to applicants that meet the Eligibility and Allocation Criteria. Allocations from the 2040 Resource Pool will be determined through a separate public process conducted prior to 2040.

3. Eligibility Criteria

Western proposes to apply the following Eligibility Criteria to all applicants seeking a resource pool allocation under the Marketing Plan.

- a. Applicants must meet the preference requirements under Section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485(c)), as amended and supplemented.
- b. Applicants should be located within SNR's primary marketing area (map of marketing area available upon request). If SNR's power resources are not fully subscribed, Western may market its resource outside the primary marketing area.
- c. Applicants that require power for their own use must be ready, willing, and able to receive and use Federal power.
- d. Applicants that provide retail electric service must be ready, willing, and able to receive and use the Federal power to provide electric service to their customers, not for resale to others.
- e. Applicants must submit an application in response to the Call for Resource Pool Applications issued by Western in a separate Federal Register notice. The notice will include the deadline for receipt of those applications.

- f. Native American applicants must be a Native American tribe as defined in the Indian Self Determination Act of 1975 (25 U.S.C. 450b, as amended).
- g. Western generally will not allocate power to applicants with loads of less than 1 MW; however, allocations to applicants with loads which are at least 500 kilowatts may be considered, provided the loads can be aggregated with other allottees' loads to schedule and deliver to a minimum load of 1 MW.

4. Allocation Criteria

Western proposes to apply the following Allocation Criteria to all applicants receiving a resource pool allocation under the Marketing Plan.

- a. Allocations will be made in amounts as determined solely by Western in exercise of its discretion under Reclamation Law and considered to be in the best interest of the U.S. Government.
- b. Allocations will be based on the applicant's load during the calendar year prior to the Call for Applications or the amount requested, whichever is less.
- c. An allottee will have the right to purchase power from Western only upon the execution of an electric service contract between Western and the allottee, and satisfaction of all conditions in that contract.
- d. All customers, including those receiving an allocation from the 2025 Resource Pool, will be subject to the 2040 Resource Pool adjustment.
- e. Eligible Native American entities will receive greater consideration for an allocation of up to 65 percent of their total energy load in the calendar year prior to the Call for

Applications.

V. General Criteria and Contract Principles

Western proposes to apply the following criteria and contract principles to all contracts executed under the Marketing Plan, except that certain criteria may not apply to contracts for first preference customers (see section VI for a definition of those customers):

- A. Electric service contracts shall be executed within 6 months of a contract offer, unless otherwise agreed to in writing by Western.
- B. Allocation percentages shall be subject to adjustment.
- C. All power supplied by Western will be delivered pursuant to a scheduling arrangement.
- D. Customers will be required to pay for their percentage of the Base Resource, regardless of whether they can actually use the power.
- E. Customers must pay for all charges associated with the products and services provided, including charges associated with ancillary services, Custom Products, and transmission. Those charges will be passed on to the customer(s) contracting for the product or service.
- F. Western may develop rate schedules for services provided under the Proposed Plan. Such rates will be developed through a separate process.
- G. Customers must pay all applicable rates and charges in the manner and within the time prescribed in the contract.
- H. A written commitment to the Custom Product will be required on or before January 1, 2023. Western may extend the final commitment dates for the Custom Product.
- I. Contracts will include clauses specifying criteria that customers must meet on a continuous

basis to be eligible to receive electric service from Western.

- J. Upon request, Western shall provide, or assist each new and existing customer in obtaining transmission arrangements for delivery of power marketed under the Marketing Plan; nonetheless, each entity is ultimately responsible for obtaining its own delivery arrangements to its load. Transmission service over the CVP system will be provided in accordance with Section VII of this Proposed Plan.
- K. Contracts shall provide for Western to furnish electric service effective January 1, 2025, through December 31, 2054.
- L. Specific products and services may be provided for periods of time as agreed to in the electric service contract.
- M. Contracts shall incorporate Western's standard provisions for electric service contracts, integrated resource plans, and General Power Contract Provisions, as determined by Western.
- N. Contracts will include a clause that allows Western to reduce or rescind a customer's allocation percentage, upon 90 days' notice, if Western determines that (1) the customer is not using this power to serve its own loads, except as otherwise specified in Section III; or (2) the allocation amounts are consistently greater than the customer's maximum load.
- O. Any power not under contract may be allocated at any time, at Western's sole discretion, or sold as deemed appropriate by Western.
- P. Contracts will include a clause providing for Western to adjust the customers' allocation percentage for the 2040 Resource Pool.

Q. Contracts may include a clause providing for alternative funding arrangements, including Net Billing, Bill Crediting, Reimbursable Financing, and advance payment.

VI. First Preference Entitlement and Allocation

The Trinity River Division Act and the New Melones Project provisions of the Flood Control Act of 1962 (Acts) specify that contracts for the sale and delivery of the additional electric energy, available from the CVP power system as a result of the construction of the plants authorized by these Acts and their integration into the CVP system, shall be made in accordance with preferences expressed in Federal Reclamation Laws. These Acts also provide that a first preference of up to 25 percent of the additional energy shall be given, under Federal Reclamation Law, to preference customers in the counties of origin (Trinity, Tuolumne, and Calaveras), for use in those counties, who are ready, willing, and able to enter into contracts for the energy.

Western proposes to calculate and allocate the maximum entitlements of first preference customers (MEFPC), which is the maximum amount of energy available to first preference customers/entities, in accordance with the following:

- A. The MEFPC will be calculated separately for the New Melones Project, Calaveras and Tuolumne Counties, and the Trinity River Division (TRD), Trinity County (first preference projects). To determine the 25 percent of additional energy made available to the CVP as a result of the construction of each of these projects, Western proposes to use the average of the previous 20 years of historical annual generation. The TRD MEFPC includes generation from Trinity, Carr, and Spring Creek Powerplants and a portion of the Keswick Powerplant generation. Based on the most current information available, this calculation results in an

estimated MEFPC of 122,800 MWh available from the New Melones Project, and an estimated MEFPC of 361,500 MWh available from the TRD. Western proposes to recalculate the MEFPC every 5 years, with the initial recalculation pertaining to this Proposed Plan completed by June 1, 2024.

- B. Upon recalculation, if the MEFPC from a first preference project is 10 percent above or below the currently effective MEFPC from that first preference project, the MEFPC will be adjusted to reflect that increase or decrease. Western will notify affected first preference customers at least 6 months before making an adjustment to the MEFPC. If recalculation reduces the MEFPC to an amount less than the load previously served, Western may, upon request and at its discretion, make purchases necessary to replace that amount of power no longer available. The costs for all such purchases made on behalf of a first preference customer will be passed on to that first preference customer.
- C. An allocation made to a first preference customer/entity under the Final Plan will be based on the power requirements of that first preference customer/entity. The sum of allocations of first preference power, including losses, shall not exceed the MEFPC from each first preference project, or a county of origin's share of the MEFPC, except as allowed under Section VI.7 below.
- D. Western proposes to provide full requirements service as described below to first preference customers. The first preference customer will be responsible for transformation and transmission losses to the first preference customer delivery point. Transmission losses shall

include losses for CVP transmission and third-party transmission.

Western will provide the first preference customer with its full power requirements (capacity and energy) up to its right to the MEFPC at the Base Resource rate. If there is more than one first preference customer in a county of origin, or a first preference entity in that county makes a request for power, Western reserves the right to establish a maximum amount of power available to each first preference customer from the MEFPC. Payment for full requirements service will be based on usage.

- E. A first preference entity may exercise its right to use a portion of the MEFPC by providing written notice to Western at least 18 months prior to the anniversary date of the first preference project located in its county. The anniversary date is the successive fifth year anniversary of the date the Secretary of the Interior declared the availability of power from the powerplants in the counties of origin. New applications for service to begin on January 1, 2025, must be received 18 months prior to January 1, 2022 (i.e., July 1, 2020), for Trinity County and 18 months prior to April 5, 2022 (i.e., October 5, 2020), for Calaveras and Tuolumne Counties. Other anniversary years applicable to this Proposed Plan are 2027, 2032, 2037, 2042, 2047, and 2052.
- F. If the request of a first preference customer/entity for power, including adjustment for losses, is greater than the remaining MEFPC from that county's first preference project, then Western will allocate the remaining MEFPC to the first preference customer/entity first making a request for a power allocation or a justified increase in its allocation percentage.
- G. Power allocated to first preference customers/entities in Tuolumne and Calaveras Counties will

be subject to the following additional conditions:

1. Tuolumne and Calaveras Counties shall each be entitled to one-half of the New Melones Project MEFPC.
 2. If first preference customers in either Tuolumne County or Calaveras County are not using their county's full one-half share, and a first preference customer/entity in the other county requests power in an amount exceeding that county's one-half share, then Western will allocate the unused power, on a withdrawable basis, to the requesting first preference customer/entity. Such power may be withdrawn for use by a first preference customer/entity in the county not using its full one-half share upon 6 months' written notice from Western.
- H. Trinity Public Utilities District is currently the sole recipient of the TRD's first preference rights.
- I. Transmission service will be provided in accordance with applicable laws and Section VII of this Proposed Plan.
- J. For planning purposes, first preference customers may be required to provide forecasts and other information required by Western as set forth in the electric service contract.
- K. The general criteria and contract principles set forth in Sections V.A, C through I, K, M, and O of this Proposed Plan will apply to first preference customers.

VII. Transmission Service

Allottees and customers must secure all necessary transmission service to deliver Federal power. Western will provide transmission service to deliver the Base Resource

over the CVP transmission system. Western will work with allottees and customers to secure bundled or unbundled transmission services as appropriate beyond its CVP transmission system in conjunction with its power sales in a manner consistent with Federal Energy Regulatory Commission orders, legislated mandates, or California Independent System Operator agreements. While Western will work with allottees and customers, it is the allottees and customers obligations to secure all necessary transmission service.

Generally, Western will market surplus transmission capacity on the CVP and COTP available under Western's Open Access Transmission Tariff. The legislation authorizing the PACI provides for the Secretary to market surplus available transmission capacity on the PACI at equitable rates to aid and benefit the CVP. Western will determine the use of its transmission resources concurrently with further development of the products and services under this Proposed Plan. Specific terms and conditions for transmission will be provided for in future service agreements. Western will develop transmission rates under a separate proceeding.

VIII. Changes in the Electric Utility Industry

Western recognizes that there have been, and continue to be, significant changes in the electric utility industry. In order to address this concern, Western is proposing, in collaboration with its customers, to include the ability to make changes in how the Federal resource is marketed if there is deemed a benefit to Western and its customers. Any changes implemented would be done through negotiation and revision to individual customer contracts.

Authorities

Western developed this Proposed Plan in accordance with its power marketing authorities

pursuant to the Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*); the Reclamation Act of June 17, 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485(c)); and other acts specifically applicable to the projects involved.

Regulatory Procedure Requirements

Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*), Western has received approval from the Office of Management and Budget for the collection of customer information in this rule, under control number 1910-5136, which expires on September 30, 2017.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), requires preparation of an initial regulatory flexibility analysis whenever an agency is required by 5 U.S.C. 553, or any other law, to publish general notice of proposed rulemaking for any proposed rule. A final regulatory flexibility analysis is required whenever the agency promulgates a final rule under 5 U.S.C. 553, after being required by that section or any other law to publish a general notice of proposed rulemaking. Western has determined that the analytical requirements of the Regulatory Flexibility Act do not apply to this rulemaking because it is a rulemaking involving services applicable to public property.

Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4370), Council on Environmental Quality NEPA implementing regulations (40 CFR parts 1500-1508), and DOE NEPA implementing regulations (10 CFR part 1021), Western completed

a Categorical Exclusion (CX). Since Western is reallocating its existing resources and is not planning to increase its generation or transmission under this Proposed Plan, a CX is the appropriate level of environmental review.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this Federal Register notice by the Office of Management and Budget is required.

Dated: April 22, 2016

Mark A. Gabriel
Administrator

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